

§ 1.153

used to represent color contrast. Broken lines may be used to show visible environmental structure, but may not be used to show hidden planes and surfaces which cannot be seen through opaque materials. Alternate positions of a design component, illustrated by full and broken lines in the same view are not permitted in a design drawing. Photographs and ink drawings must not be combined in one application. Photographs submitted in lieu of ink drawings in design patent applications must comply with §1.84(b) and must not disclose environmental structure but must be limited to the design for the article claimed. Color drawings and color photographs are not permitted in design patent applications.

[58 FR 38726, July 20, 1993]

§1.153 Title, description and claim, oath or declaration.

(a) The title of the design must designate the particular article. No description, other than a reference to the drawing, is ordinarily required. The claim shall be in formal terms to the ornamental design for the article (specifying name) as shown, or as shown and described. More than one claim is neither required nor permitted.

(b) The oath or declaration required of the applicant must comply with §1.63.

(35 U.S.C. 6, Pub. L. 97-247)

[24 FR 10332, Dec. 22, 1959, as amended at 29 FR 18503, Dec. 29, 1964; 48 FR 2712, Jan. 20, 1983]

§1.154 Arrangement of specification.

(a) The elements of the design application, if applicable, should appear in the following order:

(1) Design Application Transmittal Form.

(2) Fee Transmittal Form.

(3) Preamble, stating name of the applicant and title of the design.

(4) Cross-reference to related applications.

(5) Statement regarding federally sponsored research or development.

(6) Description of the figure or figures of the drawing.

(7) Feature Description.

(8) A single claim.

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(9) Drawings or photographs.

(10) Executed oath or declaration (See §1.153(b)).

(b) [Reserved]

[61 FR 42806, Aug. 19, 1996]

§1.155 Issue and term of design patents.

(a) If, on examination, it shall appear that the applicant is entitled to a design patent under the law, a notice of allowance will be sent to the applicant, or applicant's attorney or agent, calling for the payment of the issue fee (§1.18(b)). If this issue fee is not paid within 3 months of the date of the notice of allowance, the application shall be regarded as abandoned.

(b) The Commissioner may accept the payment of the issue fee later than three months after the mailing of the notice of allowance as though no abandonment had ever occurred if upon petition the delay in payment is shown to have been unavoidable. The petition to accept the delayed payment must be promptly filed after the applicant is notified of, or otherwise becomes aware of, the abandonment, and must be accompanied by:

(1) The issue fee, unless it has been previously submitted;

(2) The fee for delayed payment (§1.17(1)); and

(3) A showing that the delay was unavoidable. The showing must be a verified showing if made by a person not registered to practice before the Patent and Trademark Office.

(c) The Commissioner may, upon petition, accept the payment of the issue fee later than three months after the mailing of the notice of allowance as though no abandonment had ever occurred if the delay in payment was unintentional. The petition to accept the delayed payment must be:

(1) Accompanied by the issue fee, unless it had been previously submitted;

(2) Accompanied by the fee for unintentionally delayed payment (§1.17(m));

(3) Accompanied by a statement that the delay was unintentional. The statement must be a verified statement if made by a person not registered to practice before the Patent and Trademark Office. The Commissioner may require additional information where